

TITLE 50. STATE GOVERNMENT
CHAPTER 18. STATE PRINTING AND DOCUMENTS
ARTICLE 5. STATE RECORDS MANAGEMENT

Updated: November 15, 2012

§ 50-18-90. Short title

This article shall be known and may be cited as the "Georgia Records Act."

§ 50-18-91. Definitions

As used in this article, the term:

(1) "Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government created or established by law.

(2) "Court record" means all documents, papers, letters, maps, books (except books formally organized in libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or, in the necessary performance of any judicial function, created or received by an official of the Supreme Court, Court of Appeals, and any superior, state, juvenile, probate, or magistrate court. "Court record" includes records of the offices of the judge, clerk, prosecuting attorney, public defender, court reporter, or any employee of the court.

(3) "Division" means the Division of Archives and History of the Office of the Secretary of State.

(4) "Georgia State Archives" means an establishment maintained by the division for the preservation of those records and other papers that have been determined by the division to have sufficient historical and other value to warrant their continued preservation by the state and that have been accepted by the division for deposit in its custody.

(5) "Records" means all documents, papers, letters, maps, books (except books in formally organized libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in performance of functions by any agency.

(6) "Records center" means an establishment maintained by the division primarily for the storage, processing, servicing, and security of public records that must be retained for varying periods of time but need not be retained in an agency's office equipment or office space.

(7) "Record series" means documents or records having similar physical characteristics or relating to a similar function or activity that are filed in a unified arrangement.

(8) "Records management" means the application of management techniques to the creation, utilization, maintenance, retention, preservation, and disposal of records undertaken to reduce costs and improve efficiency of record keeping. "Records management" includes management of filing and microfilming equipment and supplies; filing and information retrieval systems; files, correspondence, reports, and forms management; historical documentation; micrographics; retention programming; and

vital records protection.

(9) "Retention schedule" means a set of disposition instructions prescribing how long, where, and in what form a record series shall be kept.

(10) "Vital records" means any record vital to the resumption or continuation of operations, or both; to the re-creation of the legal and financial status of government in the state; or to the protection and fulfillment of obligations to citizens of the state.

§ 50-18-92. Creation of State Records Committee; membership; duties; retention schedules; appeal to committee by agency heads; court records

(a) There is created the State Records Committee, to be composed of the Governor, the Secretary of State, an appointee of the Governor who is not the Attorney General, the state auditor, and an officer of a governing body, as such terms are defined in subsection (a) of Code Section 50-18-99, to be appointed by the Secretary of State, or their designated representatives. It shall be the duty of the committee to review, approve, disapprove, amend, or modify retention schedules submitted by agency heads, school boards, county governments, and municipal governments through the division for the disposition of records based on administrative, legal, fiscal, or historical values. The retention schedules, once approved, shall be authoritative, shall be directive, and shall have the force and effect of law. A retention schedule may be determined by three members of the committee. Retention schedules may be amended by the committee on change of program mission or legislative changes affecting the records. The Secretary of State shall serve as chairperson of the committee and shall schedule meetings of the committee as required. Three members shall constitute a quorum. Each agency head has the right of appeal to the committee for actions taken under this Code section.

(b) Each court of this state may recommend to the State Records Committee and the Administrative Office of the Courts retention schedules for records of that court. The committee, with the concurrence of the Administrative Office of the Courts, shall adopt retention schedules for court records of each court. The destruction of court records by retention schedule shall not be construed as affecting the status of each court as a court of record.

§ 50-18-93. Duties of division

It shall be the duty of the division to:

(1) Establish and administer, under the direction of a state records management officer, who shall be employed under the rules and regulations of the State Personnel Board, a records management program;

(2) Develop and issue procedures, rules, and regulations establishing standards for efficient and economical management methods relating to the creation, maintenance, utilization, retention, preservation, and disposition of records, filing equipment, supplies, microfilming of records, and vital records programs;

(3) Assist state agencies in implementing records programs by providing consultative services in records management, conducting surveys in order to recommend more efficient records management practices, and providing training for records management personnel; and

(4) Operate a records center or centers which shall accept all records transferred to it through the operation of approved retention schedules, provide secure storage and reference service for the same, and submit written notice to the applicable agency of intended destruction of records in accordance with approved retention schedules.

§ 50-18-94. Duties of agencies

It shall be the duty of each agency to:

(1) Cause to be made and preserved records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the government and of persons directly affected by the agency's activities;

(2) Cooperate fully with the division in complying with this article;

(3) Establish and maintain an active and continuing program for the economical and efficient management of records and assist the division in the conduct of records management surveys;

(4) Implement records management procedures and regulations issued by the division;

(5) Submit to the division, in accordance with the rules and regulations of the division, a recommended retention schedule for each record series in its custody, except that schedules for common-type files may be established by the division. No records will be scheduled for permanent retention in an office. No records will be scheduled for retention any longer than is absolutely necessary in the performance of required functions. Records requiring retention for several years will be transferred to the records center for low-cost storage at the earliest possible date following creation;

(6) Establish necessary safeguards against the removal or loss of records and such further safeguards as may be required by regulations of the division. The safeguards shall include notification to all officials and employees of the agency that no records in the custody of the agency are to be alienated or destroyed except in accordance with this article; and

(7) Designate an agency records management officer who shall establish and operate a records management program.

§ 50-18-95. Agency heads retain authority to determine records required by departments; treatment of confidential records

(a) Nothing in this article shall be construed to divest agency heads of the authority to determine the nature and form of records required in the administration of their several departments. Notwithstanding this Code section, agency heads shall carry out the provisions of Code Section 50-18-94.

(b) Any records designated confidential by law shall be so treated by the division in the maintenance, storage, and disposition of such confidential records. These records shall be destroyed in such a manner that they cannot be read, interpreted, or reconstructed.

§ 50-18-96. (Repealed effective January 1, 2013) Copies of records as primary evidence

Photostatic copies of records produced from microfilm and print-out copies of computer records shall be received in any court of this state as primary evidence of the recitals contained therein.

§ 50-18-97. Effect of certified copies of records; fee

The division may make certified copies under seal of any records or any preservation duplicates transferred or deposited in the Georgia State Archives or the records center or may make reproductions of such records. The certified copies or reproductions, when signed by the director of the division, shall have the same force and effect as if made by the agency from which the records were received. The division may establish and charge reasonable fees for such services.

§ 50-18-98. Title to records; access to records of constitutional officers

(a) Title to any record transferred to the Georgia State Archives as authorized by this article shall be vested in the division. The division shall not destroy any record transferred to it by an agency without consulting with the proper official of the transferring agency prior to submitting a retention schedule requesting such destruction to the State Records Committee. Access to records of constitutional officers shall be at the discretion of the constitutional officer who created, received, or maintained the records, but no limitation on access to such records shall extend more than 25 years after creation of the records. As used in this Code section, the term "constitutional officer" means the Governor, Lieutenant Governor, Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, or Commissioner of Labor.

(b) Title to any record transferred to the records center shall remain in the agency transferring such record to the records center.

§ 50-18-99. Records management programs for local governments

(a) As used in this Code section, the term:

(1) "Governing body" means the governing body of any county, municipality, or consolidated government. The term includes school boards of this state.

(2) "Office or officer" means any county office or officer or any office or officer under the jurisdiction of a governing body which maintains or is responsible for records.

(b) This article shall apply to local governments, except as modified in this Code section.

(c) All records created or received in the performance of a public duty or paid for by public funds by a governing body are deemed to be public property and shall constitute a record of public acts.

(d) Prior to July 1, 1983, each office or officer shall recommend to the governing body a retention schedule. This schedule shall include an inventory of the type of records maintained and the length of time each type of record shall be maintained in the office or in a record-holding area. These retention periods shall be based on the legal, fiscal, administrative, and historical needs for the record. Schedules

previously approved by the State Records Committee will remain in effect until changed by the governing body.

(e) Prior to January 1, 1984, each governing body shall approve by resolution or ordinance a records management plan which shall include but not be limited to:

(1) The name of the person or title of the officer who will coordinate and perform the responsibilities of the governing body under this article;

(2) Each retention schedule approved by the governing body; and

(3) Provisions for maintenance and security of the records.

(f) The Secretary of State, through the division, shall coordinate all records management matters for purposes of this Code section. The division shall provide local governments with a list of common types of records maintained together with recommended retention periods and shall provide training and assistance as required. The division shall advise local governments of records of historical value which may be deposited in the state archives. All other records shall be maintained by the local government.

(g) Except as otherwise provided by law, ordinance, or policy adopted by the office or officer responsible for maintaining the records, all records shall be open to the public or the state or any agency thereof.

§ 50-18-100. Lifting restrictions on access to confidential, classified, or restricted records after 75 years; earlier lifting

(a) This Code section applies only to those records:

(1) That are confidential, classified, or restricted by Acts of the General Assembly or may be declared to be confidential, classified, or restricted by future Acts of the General Assembly, unless the future Acts specifically exempt these records from this Code section; and

(2) That have been, or are in the future, deposited in the Georgia State Archives or in other state operated archival institutions because of their value for historical research.

(b) All restrictions on access to records covered by this Code section are lifted and removed 75 years after the creation of the record.

(c) Restrictions on access to records covered by this Code section may be lifted and removed as early as 20 years after the creation of the record on unanimous approval in writing of the State Records Committee.

(d) Applications requesting that the State Records Committee review and consider lifting such restrictions may be made either by the director of the division or by the head of the agency that transferred the record to the archives.

(e) Notwithstanding any other provisions of this Code to the contrary, a date of birth or maiden name contained in genealogical research notes, papers, records, and publications donated to or acquired by the division shall be open to any qualified researcher.

§ 50-18-101. Use of confidential, classified, or restricted records for research; limitations

(a) Records that by law are confidential, classified, or restricted may be used for research purposes by private researchers providing that:

(1) The researcher is qualified to perform such research;

(2) The research topic is designed to produce a study that would be of potential benefit to the state or its citizens; and

(3) The researcher will agree in writing to protect the confidentiality of the information contained in the records.

When the purpose of the confidentiality is to protect the rights of privacy of any person or persons who are named in the records, the researcher must agree not to refer to the persons, either in his notes or in his finished study or in any manner, in such a way that they can be identified. When the purpose of the confidentiality is to protect other information, the researcher must agree not to divulge that information.

(b) The head of the agency that created the records, or his designee, shall determine whether or not the researcher and his research topic meet the qualifications set forth in subsection (a) of this Code section prior to accepting the signed agreement from the researcher and granting permission to use the confidential records.

(c) The use of such confidential records for research shall be considered a privilege and the agreement signed by the researcher shall be binding on him. Researchers who violate the confidentiality of these records shall be punished in the same manner as would government employees or officials found guilty of this offense.

§ 50-18-102. Records as public property; disposing of records other than by approved retention schedule as misdemeanor; person acting under article not liable

(a) All records created or received in the performance of duty and paid for by public funds are deemed to be public property and shall constitute a record of public acts.

(b) The destruction of records shall occur only through the operation of an approved retention schedule. The records shall not be placed in the custody of private individuals or institutions or semiprivate organizations unless authorized by retention schedules.

(c) The alienation, alteration, theft, or destruction of records by any person or persons in a manner not authorized by an applicable retention schedule is a misdemeanor.

(d) No person acting in compliance with this article shall be held personally liable.

§ 50-18-103. Construction of laws and rules

Whenever laws or rules and regulations prescribe where a record series must be kept, the custodian of

the records shall be considered in compliance with the laws and rules and regulations if he transfers the records to a local holding area, a records center, or the Georgia State Archives when he does so in accordance with an approved retention schedule.